IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

Crl.Rev.Pet.No. 2555 of 2003(A)

CRA.126/2002 of SESSIONS COURT, MANJERI
CC.651/1998 of JUDL.MAGISTRATE OF FIRST CLASS-II(FOREST OFFENCES), MANJERI

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REVN. PETITIONER: APPELLANT/ACCUSED:

SAIDALAVI, S/O. AHAMMED KUTTY,
KOOLAMADATHIL, MUTTIPPALAM,
MANJERI, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: RESPONDENT/COMPLAINANT & STATE:

THE STATE OF KERALA REPRESENTED
BY THE CIRCLE INSPECTOR OF POLICE,
MANJERI THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.

BY ADV. SRI.T.K.AJITH KUMAR
BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.2555 of 2003

Dated this the 5th day of June, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 379 IPC and sentenced to undergo R.I. for two years.

2. The prosecution case is that on 13.9.1996, at about 11 a.m. the accused/revision petitioner riding a bicycle came from behind of PW2 and snatched away the vanity bag that she was carrying on her shoulders which contained Rs.59,827.80, cheques, invoices, pass book etc. while PW1 was proceeding to the State Bank of Travancore, Manjeri.

3. It is the contention of the revision petitioner that there is no evidence as to the identity of the accused as the evidence of PW1 did not contain any statement with respect to the identity of the accused. The accused was arrested on 13.11.1996 and that only then he was shown to her from at the Police Station. It is further pointed out that the evidence as to the recovery is not convincing. It is the case of the prosecution that Rs.18,150/- was recovered from the person of the accused at

the time of arrest and Rs.5,450/- was recovered from his house subsequent to the arrest on the same day as produced by the mother of the appellant. It is pointed out that the investigating officer has not been examined. It is not proved that the recovery is in pursuant to the information received from the accused. It is on the above grounds that the revision petitioner has contended that the prosecution has not established the guilt of the accused beyond reasonable doubt. On perusal of the evidence adduced in the matter, I find that the only evidence as to the identity of the accused is the version of PW2 who has stated that the accused came from behind, riding a cycle and snatched the vanity bag from her and sped away. As pointed out by the counsel for the revision petitioner the FIS was not rendered by PW2. The complaint was lodged by PW1, the Assistant Executive Engineer of the K.S.E.B. The evidence of PW2 the lady is also absent with respect to any features of the accused that she has noticed. There is no evidence that she had a face to face encounter with the accused. The version is that she chased the accused to a certain extent, but he left riding the bicycle. PW3, the alleged occurrence witness turned hostile. Hence, the only evidence as

to the identity of the accused is the version of PW2 who herself has not mentioned in her examination that it is the accused in the dock who snatched away the bag from her. Even if it is inferred that she meant the accused when she mentioned about the person who snatched away her bag, I find that her evidence is absent as to the fact that at the time of snatching the bag she has identified the accused. As is already noted that there is no proper evidence as to the recovery of Rs.5,450/- from the house of the accused was in pursuance of the information received from the accused. PW16, the mother of the accused has not supported the prosecution. There is no evidence as to the identity of the currency recovered. Hence, I find that prosecution has failed to establish the identity of the accused, that it was the accused who committed the offence, beyond reasonable doubt. Hence, the orders of the court below is set aside. The accused stands acquitted. The seized money and the vanity bag will be released to PW2 as ordered by the trial court.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl